



Billing Code 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R1–ES–2019–N054; FXES11140100000–190–FF01E00000]

Final Environmental Impact Statement and Final Habitat Conservation Plan for the Skookumchuck Wind Energy Project, Lewis and Thurston Counties, Washington

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of a final environmental impact statement (EIS) and a final habitat conservation plan (HCP) addressing the Skookumchuck Wind Energy Project (project) in Lewis and Thurston Counties, Washington. The Skookumchuck Wind Energy Project LLC (applicant) is requesting an incidental take permit (ITP) covering the take of one threatened species listed under the Endangered Species Act, and two non-listed federally protected species (collectively referred to as covered species) likely to be caused by the operation of the project over a 30-year period. The HCP describes the steps the applicant will take to minimize, mitigate, and monitor incidental take of the covered species. The final EIS has been prepared in response to the ITP application in accordance with the requirements of the National Environmental Policy Act.

DATES: The Service's ITP decision will occur no sooner than 30 days after publication of the U.S. Environmental Protection Agency's notice of the final EIS in the **Federal Register**, and will be documented in a record of decision (ROD).

ADDRESSES: You may obtain copies of the documents by any of the following methods:

- *Internet:* <http://www.regulations.gov> under Docket No. FWS–R1–ES–2019–N054.
- *Upon Request:* You may call Curtis Tanner at 360–753–4326 to request alternative formats of the documents or make an appointment to inspect the documents during normal business hours at the U.S. Fish and Wildlife Service, Washington Fish and Wildlife Office, 510 Desmond Dr. SE, Suite 102, Lacey, WA 98503.

FOR FURTHER INFORMATION CONTACT: Curtis Tanner, U.S. Fish and Wildlife Service, Washington Fish and Wildlife Office (see **ADDRESSES**); telephone: 360–753–4326; email: Curtis_Tanner@fws.gov. Hearing or speech impaired individuals may call the Federal Relay Service at 800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION:

We, the U.S. Fish and Wildlife Service (Service), announce the availability of a final environmental impact statement (EIS) and a final habitat conservation plan (HCP) addressing the Skookumchuck Wind Energy Project (project) in Lewis and Thurston Counties, Washington. The Skookumchuck Wind Energy Project LLC (applicant) is requesting an incidental take permit (ITP) covering the take of one threatened species listed under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and two non-listed federally protected species (collectively referred to as covered species) likely to be caused by the operation of the project over a 30-year period. The HCP describes the steps the applicant will take to minimize, mitigate, and monitor incidental take of the covered species. The final EIS has been prepared in response to the

ITP application, in accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*).

The applicant is seeking an ITP authorizing take of the following covered species: Marbled murrelet (*Brachyramphus marmoratus*), bald eagle (*Haliaeetus leucocephalus*), and golden eagle (*Aquila chrysaetos*). The murrelet is listed as threatened under the ESA. Bald and golden eagles are not listed under the ESA, but are protected under the Bald and Golden Eagle Protection Act (BGEPA; 16 U.S.C. 668–668d).

If issued, the ITP would authorize take of the covered species that may occur as a result of their collision with project wind turbines, and as a result of the applicant carrying out site management and maintenance activities over the 30-year permit term. The applicant is not seeking ITP coverage for the construction phase of the project, which includes, without limitation, the construction of roads and turbine pads, and the erection of 38 commercial wind turbines, transmission lines, and meteorological towers. The applicant is also not seeking ITP coverage for the decommissioning of project facilities. The applicant anticipates completing project construction prior to implementation of the HCP.

The HCP describes the anticipated amount of take of each covered species, and the steps the applicant will implement to minimize and mitigate the impacts of that taking. The HCP also describes the life history and ecology of the covered species, the biological goals and objectives of the HCP, the impact of the anticipated taking on the affected populations of each covered species, adaptive management procedures, and take monitoring procedures.

The Service prepared the final EIS in response to the ITP application and in consideration of comments received on the draft EIS, in accordance with the requirements of NEPA.

Background

The project site encompasses approximately 9,700 acres of forestlands in Thurston and Lewis Counties, Washington. The applicant intends to initiate turbine operations in 2019, or as soon as possible thereafter. A detailed description of the project is presented in chapter 2 of the HCP. The majority of the project is located in Lewis County, Washington, including all 38 wind turbines. Some supporting infrastructure is located in Thurston County, Washington. The wind energy generation facility is located on a prominent ridgeline on the Weyerhaeuser Company's Vail Tree Farm, located approximately 18 miles east of Centralia, Washington.

The project is expected to produce an output of approximately 137 megawatts (MW) of electricity from 38 wind turbines, each of which is 492 feet tall (from ground to vertical blade tip) with rotor diameters of 446 feet. The turbine operating prescriptions presented in chapter 2 of the HCP include curtailment regimes and site management prescriptions.

Pre-project monitoring identified the presence of each covered species in the project area. The applicant determined that adverse effects to each of the covered species are unavoidable, and developed the HCP to cover take of those species caused by project operations over a period of 30 years. The HCP details measures the applicant will implement to minimize, mitigate, and monitor the unavoidable incidental take of the covered species.

Avoidance and minimization measures in the HCP to benefit the marbled murrelet include seasonal curtailment of turbine blades (turbine blades are fully stopped and feathered into the wind) and site management prescriptions to maintain transmission and distribution line flight diverters, shield artificial light sources, reduce murrelet collisions with vehicles on the project site, and minimize the artificial increase of potential nest predators in the project area. Mitigation measures in the HCP to benefit the marbled murrelet include acquisition and permanent management of conservation lands to promote the preservation and enhancement of suitable nesting habitat for the species, and funding the removal of abandoned or derelict fishing nets in the Salish Sea in which murrelets can become entangled and drown.

Avoidance and minimization measures in the HCP to benefit the bald eagle and the golden eagle include site management prescriptions to remove mammal carrion to reduce scavenging by eagles on the project site, minimize cover for prey animals such as rabbits to reduce prey-based attractions of eagles to the project site, and testing of eagle detection-based turbine curtailment technologies intended to reduce eagle collisions with operating turbine blades. If effective, the turbine curtailment triggered by automated eagle-detection will be implemented routinely. Mitigation measures in the HCP intended to benefit bald eagles and golden eagles consist of retrofitting power poles to reduce the occurrence of eagle collisions with power lines and electrocution.

The action considered in the final EIS is approval of the HCP and issuance of an ITP with a term of 30 years to the applicant, if permit issuance criteria are met.

Endangered Species Act

Section 9 of the ESA and its implementing regulations prohibit “take” of fish and wildlife species listed as endangered. The ESA implementing regulations extend, under certain circumstances, the prohibition of take to threatened species (50 CFR 17.31). Under section 3 of the ESA, the term “take” means to “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct” (16 U.S.C. 1538). Under section 10(a) of the ESA, the Service may issue permits to authorize incidental take of listed fish and wildlife species. “Incidental take” is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Section 10(a)(1)(B) of the ESA contains provisions for issuing ITPs to non-Federal entities for the take of endangered and threatened species, provided the following criteria are met:

1. The taking will be incidental;
2. The applicant will, to the maximum extent practicable, minimize and mitigate the impact of such taking;
3. The applicant will ensure that adequate funding for the plan will be provided;
4. The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and
5. The applicant will carry out any other measures that the Service may require as being necessary or appropriate for the purposes of the HCP.

Bald and Golden Eagle Protection Act

Though the applicant is requesting incidental take for bald and golden eagles under section 10(a)(1)(B) of the ESA, consistency with the requirements of BGEPA is also necessary. The BGEPA prohibits take of eagles where “take” is defined as to

“pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest, or disturb” and where “disturb” is further defined as “to agitate or bother” a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available: (1) injury to an eagle; (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior; or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior (50 CFR 22.3).

Under 50 CFR 22.26, the Service has the authority to authorize take of bald and golden eagles (generally, disturbance, injury, or killing) that occurs incidental to an otherwise lawful activity. For the Service to issue such a permit, the following required determinations must be met (see 50 CFR 22.26(f)):

1. The taking will be compatible with the preservation of the bald or golden eagle (further defined by the Service to mean “consistent with the goals of maintaining stable or increasing breeding populations in all eagle management units and the persistence of local populations throughout the geographic range of each species”);

2. The taking will protect an interest in a particular locality;

3. The taking will be associated with, but not the purpose of, the activity;

4. The taking will be avoided and minimized by the applicant to the extent practicable;

5. The applicant will have applied all appropriate and practical compensatory mitigation measures, when required pursuant to 50 CFR 22.26(c);

6. Issuance of the permit will not preclude issuance of another permit necessary to protect an interest of higher priority as set forth in 50 CFR 22.26(e)(7); and

7. Issuance of the permit will not interfere with ongoing civil or criminal action concerning unpermitted past eagle take at the project.

The Service can provide eagle take authorization through an ITP for an HCP, which confers take authorization under the BGEPA without the need for a separate permit, as long as the permit issuance criteria under both ESA and BGEPA will be met by the conservation measures included in the applicant's HCP. See 50 CFR 22.11(a).

National Environmental Policy Act Compliance

The development of the HCP and the proposed issuance of an ITP under this plan comprise a Federal action that triggers the need for compliance with NEPA. We prepared a draft EIS and reviewed public comments in preparation of a final EIS to analyze the environmental impacts of a range of alternatives related to the issuance of the ITP and implementation of the conservation program under the HCP. The alternatives include a no-action alternative and three action alternatives: proposed action (alternative 1), a modified site design for the proposed action (alternative 2), and an enhanced curtailment regime alternative (alternative 3).

No-Action Alternative: Under the No-Action Alternative (Options A and B), no permit would be issued, and the applicant's HCP would not be implemented. This alternative consists of two options: Option A – No Project Operations and Option B – No Project. Option A assumes the applicant would construct the project before the Service makes a final permit decision, but would not operate the project without an ITP. Option A is included in the final EIS because the applicant informed the Service that it may initiate and complete construction of the project before the Service makes a decision on the ITP application. Option B assumes that the applicant would not construct the project

without an ITP. Under this option, nothing would change from current conditions and no impacts on the human environment would result from the project.

Alternative 1 (Proposed HCP): Issuance of the requested permit and implementation of the conservation program described in the applicant's HCP. Alternative 1 is the Service's preferred alternative.

Alternative 2: Under the Modified Project Site Design Alternative, the project would not operate the five wind turbine generators (WTGs) closest to documented marbled murrelet nest locations for the duration of the ITP. The Service would issue an ITP authorizing the level of incidental take expected to result from operation and maintenance of the remaining 33 WTGs and site management activities.

Alternative 3: Under the Enhanced Curtailment Alternative, all 38 WTGs would operate under an expanded set of curtailment measures intended to minimize the potential for take of the covered species. The Service would issue an ITP authorizing the level of incidental take expected to result from covered activities in accordance with the additional curtailment measures.

The environmental consequences of each alternative were analyzed in the final EIS. The types of effects on covered species were similar across action alternatives, with take resulting from project operations being mitigated through land acquisition, derelict net removal, and power pole retrofits. Increasing the use of avoidance and minimization measures through different turbine curtailment regimes can reduce the amount of take of covered species and the amount of renewable electricity produced; a commensurate reduction in the amount of derelict net removal and power pole retrofits are expected with alternatives that increase turbine curtailment. Public comments received in response to

the draft EIS were considered, and the final EIS reflects clarifications of the existing analysis to address public comments. The final EIS does not identify an environmentally preferred alternative, because the alternatives reflect a mix of outcomes relating to the amount of renewable energy production versus the extent of effects on covered species, for which there is no single metric of environmental preference.

EPA's Role in the EIS Process

The EPA is charged with reviewing all Federal agencies' EISs. Therefore, EPA is publishing a notice in the *Federal Register* announcing this EIS, as required under section 309 of the Clean Air Act (42 U.S.C. 7401). EPA's notices are published on Fridays. EPA serves as the repository (EIS database) for EISs prepared by Federal agencies. All EISs must be filed with EPA. You may search for EPA comments on EISs, along with EISs themselves, at <https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search>.

Public Involvement

The Service published a notice of intent (NOI) to prepare a draft EIS in the *Federal Register* on May 3, 2018 (83 FR 19569). The NOI also announced a public scoping period (May 3, 2018, through June 4, 2018), during which we invited interested parties to provide written comments related to the proposal. Two public scoping meetings were held, in Lacey, Washington, on May 8, 2018, and in Centralia, Washington, on May 10, 2018, in accordance with NEPA procedures (40 CFR 1501.7). Using public scoping comments, we prepared a draft EIS to analyze the effects of the alternatives on the human environment. The Service published a notice of availability (NOA) of the draft EIS in the *Federal Register* on November 30, 2018 (83 FR 61664), opening a 45-day public comment period. The Service also posted the *Federal Register*

NOA, notice of public scoping meeting, draft HCP, draft EIS, and a news release at <http://www.fws.gov/wafwo/>. Two public open-house meetings were held, on December 5, 2018, in Chehalis, Washington, and on December 10, 2018, in Lacey, Washington, to solicit additional input from the public on the draft EIS and draft HCP. A total of 17 comment letters and electronic submissions were received from the public. The official comment period ended on January 14, 2019.

Next Steps

We will evaluate the permit application, associated documents, and public comments in reaching a final decision on whether the application meets the requirements of section 10(a) of the ESA (16 U.S.C. 1531 *et seq.*). We will evaluate whether the proposed permit action would comply with section 7 of the ESA by conducting an intra-Service section 7 consultation. We will use the results of this consultation, in combination with the above findings, in our final analysis to determine whether or not to issue an ITP. If the requirements are met, we will issue the ITP to the applicant. We will issue a record of decision and issue or deny the ITP no sooner than 30 days after publication of the EPA's NOA of the final EIS in the *Federal Register*.

Public Review

We are not requesting public comments on the final EIS and HCP, but any written comments we receive will become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your

personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice in accordance with the requirements of section 10(c) of the ESA and its implementing regulations (50 CFR 17.22 and 17.32) and NEPA and its implementing regulations (40 CFR 1506.6).

Dated: May 8, 2019

Robyn Thorson

*Regional Director, Pacific Region
U.S. Fish and Wildlife Service.*

[FR Doc. 2019-11393 Filed: 5/30/2019 8:45 am; Publication Date: 5/31/2019]